

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CHRIS BICKLEY, an individual,
Plaintiff,

CENTURYLINK, INC., a Louisiana Corporation, and DOES 1 to 10, inclusive.

Defendants.

CASE NO.: 2:15-cv-01014-MMM(AS)

STIPULATED PROTECTIVE ORDER

State Court Action Filed: Dec. 2, 2014
Removal Filed: February 11, 2015

Defendant CENTURYLINK COMMUNICATIONS, LLC erroneously sued as CENTURYLINK, INC. (“Defendant”), and Plaintiff, CHRIS BICKLEY (“Plaintiff”) (collectively “Parties”), acknowledge discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted.

The parties acknowledge that this order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are

1 entitled to confidential treatment under the applicable legal principles. The parties
2 further acknowledge, as set forth in Section 12.3, below, that this order does not
3 entitle them to file confidential information under seal; Civil Local Rule 79-5 sets
4 forth the procedures that must be followed and the standards that will be applied
5 when a party seeks permission from the court to file material under seal.

6 Accordingly, the Parties agree to be bound by, and agree to instruct their
7 representatives to abide by, the terms of the following protective order, and hereby
8 stipulate to and petition the Court to enter the following stipulated protective order
9 (hereafter "Stipulated Protective Order" or "Order").

10 **IT IS STIPULATED:**

11 **1. Good Cause.** This action is likely to involve confidential and/or
12 proprietary information for which special protection from public disclosure and
13 from use for any purpose other than prosecution of this action is warranted. Such
14 confidential and proprietary materials and information consist of, among other
15 things, confidential business or financial information, information regarding
16 confidential business practices, or other confidential research, development, or
17 commercial information (including information implicating privacy rights of third
18 parties), information otherwise generally unavailable to the public, or which may
19 be privileged or otherwise protected from disclosure under state or federal
20 statutes, court rules, case decisions, or common law. Accordingly, to expedite the
21 flow of information, to facilitate the prompt resolution of disputes over
22 confidentiality of discovery materials, to adequately protect information the
23 Parties are entitled to keep confidential, to ensure that the Parties are permitted
24 reasonable necessary uses of such material in preparation for and in the conduct of
25 trial, to address their handling at the end of the litigation, and serve the ends of
26 justice, a protective order for such information is justified in this matter. It is the
27 intent of the Parties that information will not be designated as confidential for
28 tactical reasons and that nothing be so designated without a good faith belief that

1 it has been maintained in a confidential, non-public manner, and there is good
 2 cause why it should not be part of the public record of this case.

3 **2. Definitions.**

4 (a) **Action:** Chris Bickley v. CenturyLink Communications, LLC, *et al.*

5 (b) **Challenging Party:** a Party or Non-Party that challenges the
 6 designation of information or items under this Order.

7 (c) **“CONFIDENTIAL” Information or Items:** information
 8 (regardless of how it is generated, stored or maintained) or tangible things that
 9 qualify for protection under Federal Rule of Civil Procedure 26(c), and as
 10 specified above.

11 (d) **Counsel:** Outside Counsel of Record and House Counsel (as well as
 12 their support staff).

13 (e) **Designating Party:** a Party or Non-Party that designates information
 14 or items that it produces in disclosures or in responses to discovery as
 15 “CONFIDENTIAL.”

16 (f) **Discovery Material:** all items or information, regardless of the
 17 medium or manner in which it is generated, stored, or maintained (including,
 18 among other things, testimony, transcripts, and tangible things), that are produced
 19 or generated in disclosures or responses to discovery in this matter.

20 (g) **Expert:** a person with specialized knowledge or experience in a
 21 matter pertinent to the litigation who has been retained by a Party or its counsel to
 22 serve as an expert witness or as a consultant in this Action.

23 (h) **House Counsel:** attorneys who are employees of a party to this
 24 Action. House Counsel does not include Outside Counsel of Record or any other
 25 outside counsel.

26 (i) **Non-Party:** any natural person, partnership, corporation, association,
 27 or other legal entity not named as a Party to this action.

(j) **Outside Counsel of Record:** attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, and includes support staff.

(k) **Party:** any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

(1) **Producing Party:** a Party or Non-Party that produces Discovery Material in this Action.

(m) **Professional Vendors:** persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

(n) **Confidential Material:** any Discovery Material that is designated as "CONFIDENTIAL."

(o) **Receiving Party:** a Party that receives Discovery Material from a Producing Party.

3. Scope. The protections conferred by this Stipulated Protective Order cover not only Confidential Material (as defined above), but also (1) any information copied or extracted from Confidential Material; (2) all copies, excerpts, summaries, or compilations of Confidential Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Confidential Material.

Any use of Confidential Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Confidential Material at trial.

4. Duration

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees

1 otherwise in writing or a court order otherwise directs. Final disposition shall be
 2 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
 3 with or without prejudice; and (2) final judgment herein after the completion and
 4 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
 5 including the time limits for filing any motions or applications for extension of
 6 time pursuant to applicable law.

7 **5. Designating Confidential Information.**

8 (a) Exercise of Restraint and Care in Designating Material for
 9 Protection. Each Party or Non-Party that designates information or items for
 10 protection under this Order must take care to limit any such designation to specific
 11 material that qualifies under the appropriate standards. The Designating Party
 12 must designate for protection only those parts of material, documents, items, or
 13 oral or written communications that qualify so that other portions of the material,
 14 documents, items, or communications for which protection is not warranted are
 15 not swept unjustifiably within the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited.
 17 Designations that are shown to be clearly unjustified or that have been made for
 18 an improper purpose (e.g., to unnecessarily encumber the case development
 19 process or to impose unnecessary expenses and burdens on other parties) may
 20 expose the Designating Party to sanctions.

21 If it comes to a Designating Party's attention that information or items that
 22 it designated for protection do not qualify for protection that Designating Party
 23 must promptly notify all other Parties that it is withdrawing the inapplicable
 24 designation.

25 (b) Manner and Timing of Designations. Except as otherwise provided
 26 in this Order (see, e.g., second paragraph of section b(i) below), or as otherwise
 27 stipulated or ordered, Discovery Material that qualifies for protection under this
 28 Order must be clearly so designated before the material is disclosed or produced.

1 Designation in conformity with this Order requires:

2 i. for information in documentary form (e.g., paper or electronic
3 documents, but excluding transcripts of depositions or other pretrial or trial
4 proceedings), that the Producing Party affix at a minimum, the legend
5 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
6 contains protected material. If only a portion or portions of the material on a page
7 qualifies for protection, the Producing Party also must clearly identify the
8 protected portion(s) (e.g., by making appropriate markings in the margins).

9 A Party or Non-Party that makes original documents available for
10 inspection need not designate them for protection until after the inspecting Party
11 has indicated which documents it would like copied and produced. During the
12 inspection and before the designation, all of the material made available for
13 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
14 identified the documents it wants copied and produced, the Producing Party must
15 determine which documents, or portions thereof, qualify for protection under this
16 Order. Then, before producing the specified documents, the Producing Party must
17 affix the “CONFIDENTIAL legend” to each page that contains Protected
18 Material. If only a portion or portions of the material on a page qualifies for
19 protection, the Producing Party also must clearly identify the protected portion(s)
20 (e.g., by making appropriate markings in the margins).

21 ii. for testimony given in depositions, that the Designating Party
22 identify the Discovery Material on the record, before the close of the deposition.

23 iii. for information produced in some form other than documentary
24 and for any other tangible items, that the Producing Party affix in a prominent
25 place on the exterior of the container or containers in which the information is
26 stored the legend “CONFIDENTIAL.” If only a portion or portions of the
27 information warrants protection, the Producing Party, to the extent practicable,
28 shall identify the protected portion(s).

(c) Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. Challenging Confidential Designations.

(a) Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

(b) Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37.1 et seq.

(c) The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7. Access to and Use of Confidential Material

(a) Basic Principles. A Receiving Party may use Confidential Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Confidential Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 13 below (Final Disposition).

1 Confidential Material must be stored and maintained by a Receiving Party
 2 at a location and in a secure manner that ensures that access is limited to the
 3 persons authorized under this Order.

4 (b) Disclosure of “CONFIDENTIAL” Information or Items. Unless
 5 otherwise ordered by the court or permitted in writing by the Designating Party, a
 6 Receiving Party may disclose any information or item designated
 7 “CONFIDENTIAL” only to:

8 i. the Receiving Party’s Outside Counsel of Record in this Action, as
 9 well as employees of said Outside Counsel of Record to whom it is reasonably
 10 necessary to disclose the information for this Action;

11 ii. the officers, directors, and employees (including House Counsel) of
 12 the Receiving Party to whom disclosure is reasonably necessary for this Action;

13 iii. Experts (as defined in this Order) of the Receiving Party to whom
 14 disclosure is reasonably necessary for this Action and who have signed the
 15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 iv. the court and its personnel;

17 v. court reporters and their staff;

18 vi. professional jury or trial consultants, mock jurors, and Professional
 19 Vendors to whom disclosure is reasonably necessary for this Action and who have
 20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 vii. the author or recipient of a document containing the information or a
 22 custodian or other person who otherwise possessed or knew the information;

23 viii. during their depositions, witnesses ,and attorneys for witnesses, in the
 24 Action to whom disclosure is reasonably necessary provided: (1) the deposing
 25 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2)
 26 they will not be permitted to keep any confidential information unless they sign
 27 the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
 28 otherwise agreed by the Designating Party or ordered by the court. Pages of

1 transcribed deposition testimony or exhibits to depositions that reveal Confidential
2 Material may be separately bound by the court reporter and may not be disclosed
3 to anyone except as permitted under this Stipulated Protective Order; and

4 ix. any mediator or settlement officer, and their supporting personnel,
5 mutually agreed upon by any of the parties engaged in settlement discussions.

6 **8. Confidential Material Subpoenaed or Ordered Produced in Other**
7 **Litigation.** If a Party is served with a subpoena or a court order issued in other
8 litigation that compels disclosure of any information or items designated in this
9 Action as “CONFIDENTIAL,” that Party must:

10 (a) promptly notify in writing the Designating Party. Such notification
11 shall include a copy of the subpoena or court order;

12 (b) promptly notify in writing the party who caused the subpoena or
13 order to issue in the other litigation that some or all of the material covered by the
14 subpoena or order is subject to this Protective Order. Such notification shall
15 include a copy of this Stipulated Protective Order; and

16 (c) cooperate with respect to all reasonable procedures sought to be
17 pursued by the Designating Party whose Confidential Material may be affected.

18 If the Designating Party timely seeks a protective order, the Party served
19 with the subpoena or court order shall not produce any information designated in
20 this action as “CONFIDENTIAL” before a determination by the court from which
21 the subpoena or order issued, unless the Party has obtained the Designating
22 Party’s permission. The Designating Party shall bear the burden and expense of
23 seeking protection in that court of its confidential material and nothing in these
24 provisions should be construed as authorizing or encouraging a Receiving Party in
25 this Action to disobey a lawful directive from another court.

26 / / /

27 / / /

28 / / /

1 **9. A Non-Party's Confidential Material Sought to be Produced in this**
2 **Litigation.**

3 (a) The terms of this Order are applicable to information produced by a
4 Non-Party in this Action and designated as "CONFIDENTIAL." Such
5 information produced by Non-Parties in connection with this litigation is protected
6 by the remedies and relief provided by this Order. Nothing in these provisions
7 should be construed as prohibiting a Non-Party from seeking additional
8 protections.

9 (b) In the event that a Party is required, by a valid discovery request, to
10 produce a Non-Party's confidential information in its possession, and the Party is
11 subject to an agreement with the Non-Party not to produce the Non-Party's
12 confidential information, then the Party shall:

- 13 1. promptly notify in writing the Requesting Party and the Non-Party
14 that some or all of the information requested is subject to a
15 confidentiality agreement with a Non-Party;
- 16 2. promptly provide the Non-Party with a copy of the Stipulated
17 Protective Order in this Action, the relevant discovery request(s), and a reasonably
18 specific description of the information requested; and
- 19 3. make the information requested available for inspection by the
20 Non-Party, if requested.

21 (c) If the Non-Party fails to seek a protective order from this court within
22 14 days of receiving the notice and accompanying information, the Receiving
23 Party may produce the Non-Party's confidential information responsive to the
24 discovery request. If the Non-Party timely seeks a protective order, the Receiving
25 Party shall not produce any information in its possession or control that is subject
26 to the confidentiality agreement with the Non-Party before a determination by the
27 court. Absent a court order to the contrary, the Non-Party shall bear the burden
28 and expense of seeking protection in this court of its Protected Material.

1 **10. Unauthorized Disclosure of Protected Material.** If a Receiving Party
 2 learns that, by inadvertence or otherwise, it has disclosed Confidential Material to
 3 any person or in any circumstance not authorized under this Stipulated Protective
 4 Order, the Receiving Party must immediately (a) notify in writing the Designating
 5 Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
 6 unauthorized copies of the Protected Material, (c) inform the person or persons to
 7 whom unauthorized disclosures were made of all the terms of this Order, and (d)
 8 request such person or persons to execute the “Acknowledgment and Agreement
 9 to Be Bound” that is attached hereto as Exhibit A.

10 **11. Inadvertent Production of Privileged or Otherwise Protected**
 11 **Material.** When a Producing Party gives notice to Receiving Parties that certain
 12 inadvertently produced material is subject to a claim of privilege or other
 13 protection, the obligations of the Receiving Parties are those set forth in Federal
 14 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
 15 whatever procedure may be established in an e-discovery order that provides for
 16 production without prior privilege review. Pursuant to Federal Rule of Evidence
 17 502(d) and (e), insofar as the parties reach an agreement on the effect of
 18 disclosure of a communication or information covered by the attorney-client
 19 privilege or work product protection, the parties may incorporate their agreement
 20 in the stipulated protective order submitted to the court.

21 **12. Miscellaneous.**

22 (a) **Right to Further Relief.** Nothing in this Order abridges the right of
 23 any person to seek its modification by the Court in the future.

24 (b) **Right to Assert Other Objections.** By stipulating to the entry of
 25 this Protective Order no Party waives any right it otherwise would have to object
 26 to disclosing or producing any information or item on any ground not addressed in
 27 this Stipulated Protective Order. Similarly, no Party waives any right to object on
 28

1 any ground to use in evidence of any of the material covered by this Protective
2 Order.

3 (c) **Filing Protected Material**. A Party that seeks to file under seal any
4 Confidential Material must comply with Civil Local Rule 79-5. Confidential
5 Material may only be filed under seal pursuant to a court order authorizing the
6 sealing of the specific Confidential Material at issue. If a Party's request to file
7 Confidential Material under seal is denied by the court, then the Receiving Party
8 may file the information in the public record unless otherwise instructed by the
9 court.

10 **13. Final Disposition**. After the final disposition of this Action, as defined in
11 paragraph 4, within 60 days of a written request by the Designating Party, each
12 Receiving Party must return all Confidential Material to the Producing Party or
13 destroy such material. As used in this subdivision, "all Confidential Material"
14 includes all copies, abstracts, compilations, summaries, and any other format
15 reproducing or capturing any of the Confidential Material. Whether the
16 Confidential Material is returned or destroyed, the Receiving Party must submit a
17 written certification to the Producing Party (and, if not the same person or entity,
18 to the Designating Party) by the 60 day deadline that (1) identifies (by category,
19 where appropriate) all the Confidential Material that was returned or destroyed
20 and (2)affirms that the Receiving Party has not retained any copies, abstracts,
21 compilations, summaries or any other format reproducing or capturing any of the
22 Confidential Material. Notwithstanding this provision, Counsel are entitled to
23 retain an archival copy of all pleadings, motion papers, trial, deposition, and
24 hearing transcripts, legal memoranda, correspondence, deposition and trial
25 exhibits, expert reports, attorney work product, and consultant and expert work
26 product, even if such materials contain Confidential Material. Any such archival
27 copies that contain or constitute Confidential Material remain subject to this
28 Protective Order as set forth in Section 4 (**Duration**).

1 **14.** Any violation of this Order may be punished by any and all appropriate
2 measures, including without limitation, contempt proceedings, and/or monetary
3 sanctions.

4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

5 Dated: December 11, 2015

STAHLE & TORRIJOS, LLP

6 By: *s/ Mikael H. Stahle*

7 Mike Arias, Esq.
8 Mikael H. Stahle, Esq.
9 David A. Mallen, Esq.
10 Attorneys for Plaintiff
11 CHRIS BICKLEY

12 Dated: December 11, 2015

BROWN LAW GROUP

13 By: *s/ Noah J. Woods*

14 Janice P. Brown, Esq.
15 Noah J. Woods, Esq.
16 Attorneys for Defendant
17 CENTURYLINK
18 COMMUNICATIONS, LLC

19 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

20 DATED: 12/11/15

21 _____
22 /S/
23 Hon. ALKA SAGAR
24 United States Magistrate Judge

1 EXHIBIT "A"

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3

4 I, _____ [print or type full name], of

5 _____ [print or type full address], declare under penalty of perjury

6 that I have read in its entirety and understand the Stipulated Protective Order that

7 was issued by the United States District Court for the Central District of

8 California on _____ in the case of Bickley v. CenturyLink, Inc. I agree to comply

9 with and to be bound by all the terms of this Stipulated Protective Order and I

10 understand and acknowledge that failure to so comply could expose me to

11 sanctions and punishment in the nature of contempt. I solemnly promise that I will

12 not disclose in any manner any information or item that is subject to this

13 Stipulated Protective Order to any person or entity except in strict compliance

14 with the provisions of this Order. I further agree to submit to the jurisdiction of

15 the United States District Court for the Central District of California for the

16 purpose of enforcing the terms of this Stipulated Protective Order, even if such

17 enforcement proceedings occur after termination of this action. I hereby appoint

18 _____ [print or type full name] of

19 _____ [print or type full address and

20 telephone number] as my California agent for service of process in connection

21 with this action or any proceedings related to enforcement of this Stipulated

22 Protective Order.

23 Date: _____

24 City and State where sworn and signed: _____

25

26 Printed name: _____

27

28 Signature: _____

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2015, I electronically filed the foregoing document(s) with the Clerk of Court for the United States District Court for the Central District of California by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

BROWN LAW GROUP

Dated: December 11, 2015

By: *s/ Noah J. Woods*

Janice P. Brown, Esq.
Noah J. Woods, Esq.
Attorneys for Defendant
**CENTURYLINK
COMMUNICATIONS, LLC**